

APPLICATION FOR REZONING PETITION -- CITY OF TERRE HAUTE

SPECIAL ORDINANCE NO. 17, 2010

Address of lots to be rezoned: 2501 – 2503 Poplar Street, Terre Haute, Indiana

Rezone From: C-2

Rezone To: C-5, General Central Business District (CBD)

Proposed Use: Branch Bank with Drive-thru

Name of Owner: Terre Haute Savings Bank

Address of Owner: 533 Ohio Street
Terre Haute, IN 47807

Phone Number of Owner: (812) 234-4864

Attorney Representing Owner: Scott Craig

Address of Attorney: COX ZWERNER GAMBILL & SULLIVAN
511 Wabash Avenue,
Terre Haute, Indiana 47807
scraig@coxlaw.net

Phone Number of Attorney: (812) 232-6003

For Information Contact: Attorney

Council Sponsor: Pat Ralston

FILED

JUN 04 2010

CITY CLERK

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 17, 2010**

**An Ordinance Amending Chapter 10, Article 2 of the Municipal Code Designated as
"Comprehensive Zoning Ordinance for Terre Haute, Indiana."**

SECTION 1. BE IT ORDAINED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

That the following described real estate situated in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

The North half of Lot 1 in Vigo County Commissioner's Subdivision of the North half of the Northeast quarter of Section 26, Township 12 North, Range 9 West, as shown by the plat recorded July 3, 1856 in Plat Record 1, page 40. EXCEPT that party conveyed to Merchants Savings Association by Deed dated October 13, 1978 and recorded in Deed Record 377, page 416, all records of the Recorder's Office of Vigo County, Indiana.

be and the same is hereby established as C-5, General Central Business District, as designated in Division 10 Section 207 of said Comprehensive Zoning Ordinance for Terre Haute and the same is hereby declared to be a C-5, General Central Business District, authorizing the use of said real estate for the operation of business and professional offices as well as the other uses permitted by such designation, together with all rights, privileges, and provisions that may inure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.

SECTION 2. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and approval by the Mayor and publication as required by law.

Presented by Councilperson:

Pat Ralston

Passed in open Council this ____ day of _____, 2010.

Neil Garrison
Terre Haute City Council President

ATTEST: _____
Charles Hanley, City Clerk

Presented by me to the Mayor this _____ day of _____, 2010.

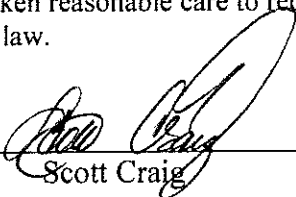
Charles Hanley, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2010.

Duke A. Bennett, Mayor
City of Terre Haute

ATTEST: _____
Charles Hanley, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.



Scott Craig

This instrument prepared by Scott Craig, COX, ZWERNER, GAMBILL & SULLIVAN, 511
Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003

PETITION FOR REZONING OF REAL ESTATE

TO THE PRESIDENT AND MEMBERS
OF THE COMMON COUNCIL OF
THE CITY OF TERRE HAUTE,
VIGO COUNTY, INDIANA

Ladies and Gentlemen:

Terre Haute Savings Bank, petitioner, is the owner of the following described real estate located in Vigo County, Indiana, to-wit:

The North half of Lot 1 in Vigo County Commissioner's Subdivision of the North half of the Northeast quarter of Section 26, Township 12 North, Range 9 West, as shown by the plat recorded July 3, 1856 in Plat Record 1, page 40.

EXCEPT that part conveyed to Merchants Savings Association by deed Dated October 13, 1978 and recorded in Deed Record 377, page 416, all records of the Recorder's Office of Vigo County, Indiana.

which real estate is commonly known as **2501-2503 Poplar Street, Terre Haute, Indiana.**

The owner proposes to use the property for a Branch Banking Center with drive-thru services available to customers. Site plans are attached.

Petitioner is informed and believes that according to *Chapter 10, Article 2, Division IV, Zoned Districts, Section 10.121 of the District Maps, "Comprehensive Zoning Ordinance for Terre Haute,"* and amendments thereto, the above described real estate is currently zoned **C-2, Community Commerce District**. Petitioner is further informed and believes that the operation of petitioner's businesses as proposed requires said real estate to be rezoned to the classification as **C-5, General Central Business District (CBD)** under which classification Section 10.207(k), "Uses Permitted -- C-5" would authorize such business


operations, in particular the operation of a Banking Center offering drive-thru service to customers.

Petitioner submits that this petition for a rezoning should be granted for the following reasons:

1. The business proposed to be located on said real estate will be beneficial to the local community, will generate employment for citizens of the community, will increase the assessed valuation of the area, and will provide important services for members of the community.
2. The real estate is located in the heart of areas which are currently zoned for commerce, including numerous businesses offering drive-thru service to customers and numerous parcels zoned in the commercial classifications.
3. The real estate is located on the south-east corner of the intersection of 25th Street and Poplar Street which provides access to customers in the immediate area as well as in other parts of town.
4. The use of said real estate as proposed will not significantly increase traffic or parking in the area, said real estate lends itself well to the proposed use; the proposed use does not alter the essential character of the locality and is not detrimental to public welfare or injurious to the property or improvements in the neighborhood.
5. Said rezoning will not increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the general area.

WHEREFORE, petitioner respectfully requests the Area Plan Commission for Vigo County and the Common Council of the City of Terre Haute, Indiana, favorably consider the passage of a Special Ordinance amending the Comprehensive Zoning Ordinance for Terre Haute, and declare the above-described real estate to be a part of " **C-5, General Central Business District (CBD)**" of the City of Terre Haute, Indiana, being entitled to the rights and benefits that may inure to said real estate and the owners thereof by virtue of said description and the laws in such cases provided, subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, the petitioner, Terre Haute Savings Bank, has duly executed
this instrument this _____ day of June, 2010.

By: 

BART COLWELL, PRESIDENT
TERRE HAUTE SAVINGS BANK

This instrument prepared by Scott Craig, COX, ZWERNER, GAMBILL & SULLIVAN, 511 Wabash
Avenue, Terre Haute, IN 47807; (812) 232-6003

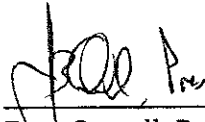
EAST POPLAR STREET



AFFIDAVIT OF OWNERSHIP

COMES NOW affiant, Bart Colwell, President of Terre Haute Savings Bank, and affirms under penalty of law that Terre Haute Savings Bank is the owner of record of the property located at 2501 - 2503 Poplar Street, Terre Haute, Indiana, for which a rezoning is requested and attached hereto are deeds evidencing such ownership.

I affirm, under penalties for perjury, that the foregoing representations are true.

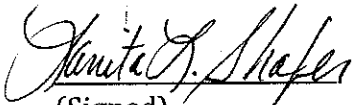


Bart Colwell, President
Terre Haute Savings Bank

STATE OF INDIANA)
) ss:
COUNTY OF VIGO)

Personally appeared before me, a Notary Public in and for said County and State, Bart Colwell, who acknowledges the execution of the above and foregoing Affidavit, after being duly sworn upon his oath and after having read this Affidavit.

WITNESS my hand and Notarial Seal, this 4th day of June, 2010.


(Signed)

LANITA L. SHAFER
(Printed Name)

My Commission Expires: 5/12/17 My County of Residence: Vigo

201
CTIC # 428902 MDS

SPECIAL WARRANTY DEED

This Special Warranty Deed ("**Deed**"), dated to be effective as of the 2nd day of June, 2010 ("**Effective Date**"), is by and between Mac's Convenience Stores LLC, a Delaware limited liability company with offices located at 4080 West Jonathan Moore Pike, Columbus, Indiana 47201 ("**Grantor**"), and Terre Haute Savings Bank, an Indiana banking corporation, with offices located at 533 Ohio Street, Terre Haute, Indiana 47808 ("**Grantee**").

WITNESSETH:

For and in consideration of the sum of \$10.00 and the mutual covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby CONVEY unto Grantee, its successors and assigns forever, the Premises more particularly described in Exhibit A attached hereto and made a part hereof (the "**Premises**"), together with any buildings, fixtures and improvements owned by Grantor and located thereon.

Together with all right, title and interest, if any, of Grantor in and to any streets and roads abutting the Premises to the center lines thereof, plus all the estate rights of Grantor in and to any easements, rights, privileges, appurtenances and other hereditaments appurtenant to the Premises;

This conveyance is made by Grantor and accepted by Grantee SUBJECT TO: (A) the lien of non-delinquent real estate taxes and assessments; (B) all easements, restrictions, covenants and conditions of record; (C) applicable zoning, building, land use and other governmental restrictions, laws, ordinances, rules and regulations; and (D) all matters that would be discovered or disclosed by a thorough inspection of the Premises and a survey of the Premises conforming to the Minimum Standard Detail Requirements for an ALTA/ACSM Land Title survey.

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns in fee simple forever; but:

IN ADDITION TO THE FOREGOING, Grantor grants the Premises to Grantee subject to the following covenants and restrictions:


1. Grantee covenants and agrees that it shall not install any well or other tank, pump or related equipment for the storage of potable water at the Premises. Grantee further covenants and agrees that it shall not improve or use the Premises for residential purposes. Each of these covenants shall run with the Premises, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors in interest thereof. Grantee agrees to include these restrictions in any conveyance or assignment of the Premises to a successor grantee.

2. Grantee acknowledges that the purchase of the Premises is based upon Grantee's independent investigation of the market area and inspection of the Premises. Grantee acknowledges that the purchase of the Premises is not based upon representations of Grantor, either oral or in writing. Grantee agrees that the Premises are being sold in an "AS IS, WHERE IS" condition with no representations, either express or implied of any kind except as is otherwise expressly set forth herein. Grantee hereby agrees to and does waive and release, to the fullest extent permitted by applicable law, and promises never to assert any actions, causes of action, suits, debts, covenants, contracts, controversies, agreements, promises, variances, damages, judgments, extents, executions, claims and demands whatsoever, whether known or unknown, in law or equity, against Grantor or its successors, assigns, parents, subsidiaries, officers, directors, managers, or agents or anyone for whom such parties may be liable ("Released Parties") caused by, arising from, or related to (i) including, but not limited to, any Environmental Conditions at the Premises, whether arising prior to or after the Closing Date; (ii) any alleged statements or representations with respect to past, current or projected sales, expenses or profits, that Purchaser has had, may now have or may hereafter have against any Released Party. For purposes of this Deed, the term "Environmental Condition" means any condition with respect to soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any environmental medium on, under, in or about the Premises whether or not yet discovered, which could or does result in any loss, contribution, cost recovery or other obligation of any nature whatsoever, or any injury, claim, action, suit, proceeding or investigation of any kind, or any judgment, order or decree, in each case of or against any Released Party or Grantee to or by any other person, including, without limitation, any condition resulting from any release, any hazardous materials, or otherwise from the Premises at any time.

SUBJECT to the foregoing, Grantor covenants with Grantee that Grantor will warrant and defend title to the Premises against the lawful claims of all persons claiming by, through, or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be duly executed on the day and year first above written.

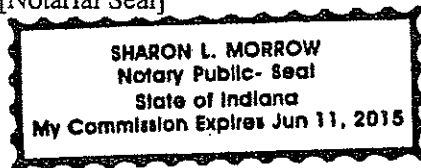
Mac's Convenience Stores LLC

By: 
Darrell J. Davis, Vice President

STATE OF INDIANA)
) SS:
COUNTY OF BARTHOLOMEW)

The foregoing Special Warranty Deed was acknowledged before me, the undersigned Notary Public, this 30th day of May, 2010 by Darrell J. Davis, who is the Vice President of Mac's Convenience Stores LLC, a Delaware limited liability company.

[Notarial Seal]



Sharon L. Morrow

Notary Public

Name Printed: Sharon L. Morrow

My commission expires: 6/11/15

I am a resident of Bartolomeo County, Indiana

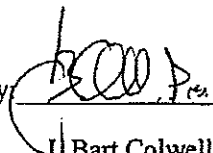
ACCEPTANCE

Terre Haute Savings Bank, an Indiana banking corporation, "Grantee" under the foregoing Special Warranty Deed, hereby evidences its acceptance of and agreement to the limitations, waivers, covenants and agreements on or of Grantee contained in such deed.

IN WITNESS WHEREOF, Grantee has executed this Acceptance this 2nd day of June, 2010.

PURCHASER:

TERRE HAUTE SAVINGS BANK

By  _____
Bart Colwell,

President and CEO

STATE OF INDIANA)
) SS:
COUNTY OF Vigo)

The foregoing Special Warranty Deed was acknowledged before me, the undersigned Notary Public, this 2nd day of June, 2010 by J. Bart Colwell, who is the President and CEO of Terre Haute Savings Bank, an Indiana banking corporation.

[Notarial Seal]

Jean T. Brown
Notary Public
Seal
State Of Indiana



Notary Public

Name Printed: Jean T. Brown

My commission expires: Nov, 2, 2015
I am a resident of Vigo County, Indiana

Instrument Prepared by:

Thomas A. Vogtner
Baker & Daniels LLP
300 North Meridian Street, Suite 2700
Indianapolis, IN 46204

Return after recording and send tax statements to:

Terre Haute Savings Bank
533 Ohio Street
P.O. Box 1648
Terre Haute, Indiana 47808
Attn: J. Bart Colwell, President and CEO

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Thomas A. Vogtner

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

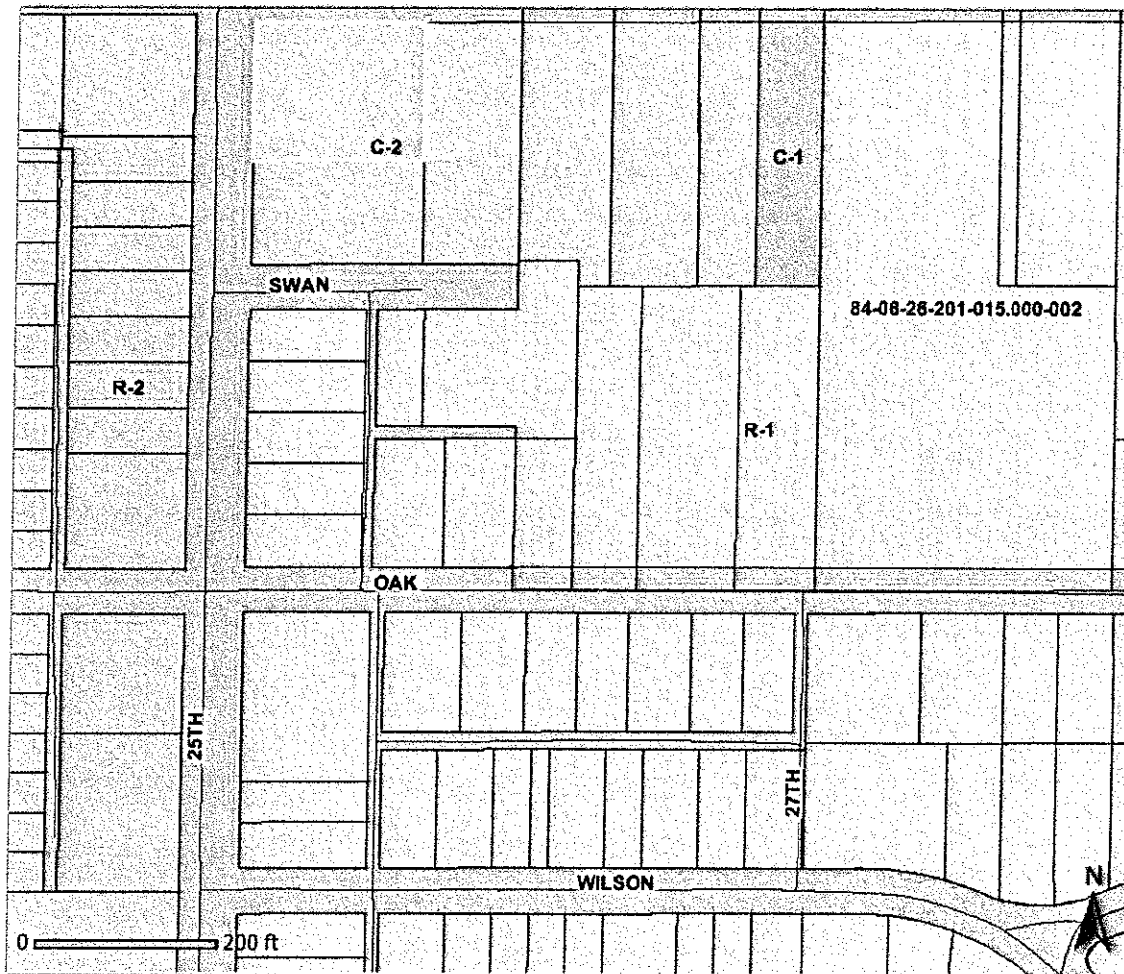
Situated in the County of Vigo, State of Indiana and identified as follows:

The North Half of Lot 1 in Vigo County Commissioner's Subdivision of the North Half of the Northeast Quarter of Section 26, Township 12 North, Range 9 West, as shown by the plat recorded July 3, 1856 in Plat Record 1 Page 40.

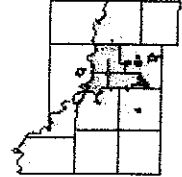
Except that part conveyed to Merchants Savings Association by Deed dated October 13, 1978 and recorded in Deed Record 377 Page 416, all records of the Recorder's Office of Vigo County, Indiana.

Commonly known as 2501 Poplar
Terre Haute, IN

Date Created: 6/3/2010
Map Scale: 1 in = 200 ft



















































Overview



Legend

Zoning

-  17-SM
-  A-1
-  A-1MO
-  A-1NR
-  C-1
-  C-1PD
-  C-2
-  C-2PD
-  C-2SU
-  C-3
-  C-3NR
-  C-3PD
-  C-3SU
-  C-4
-  C-5
-  C-6
-  C-6PD
-  C-6SU
-  C-7
-  C-8
-  C-9
-  M-1
-  M-1PD
-  M-2
-  M-2NR
-  M-2PD
-  M2SPU
-  MHCU
-  MO
-  M-O
-  O-1
-  O-2
-  OS
-  O-S
-  PUD
-  R-1
-  R-1CU
-  R1PD
-  R-1PD
-  R-1SU
-  R-2
-  R-2M
-  R-2PD
-  R-2SU
-  R-3
-  R-3P
-  R-3PD
-  R3PUD